



July 15, 2013

Office of Information and Regulatory Affairs  
Office of Management and Budget  
600 17<sup>th</sup> Street NW  
Washington, D.C. 20508

ATTN: Department of State Desk Officer

RE: Export Declaration of Defense Technical Data or Services

The Aerospace Industries Association (AIA) and our member companies appreciate the opportunity to comment on form DS-4071. AIA represents over 300 aerospace and defense manufacturers and our member companies work closely with the State Department on export compliance.

AIA understands the Office of Management and Budget (OMB) is a soliciting public comments to better:

- 1) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.
- 2) Evaluate whether the proposed information collection (form DS-4071) is necessary for the proper functions of the State Department.
- 3) Evaluate the accuracy of the estimate of time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- 4) Enhance the quality, utility, and clarity of the information to be collected.

**Item #1:**

To fully minimize the reporting requirement for companies the DS-4071 should be deleted in its entirety. The information provided in form DS-4071 is duplicative and/or not useful/applicable to the proper function of the State Department. AIA requests that the existing practice of electronically uploading **initial** export notification letters to the approved license or agreement record in DTC's DTrade system be identified as an acceptable authorized reporting mechanism. The Department should accept the uploading of notification letters to the approved license or agreement; or provide an automated mechanism for submission and annual retrieval of electronic report data by DTC registrant code.

**Item #2:**

There are a number of data points collected under form DS-4071 that are duplicative and/or not applicable to the operation of the State Department. Identification of these elements reinforces our assertion that this form should be eliminated. Please find AIA's comments on the

information currently proposed for collection under form DS-4071 that is duplicative or not applicable.

- Registration Type Code – Collection of this data is already associated to a license or agreement and should be self evident by using a K (referring to the registration code for Brokers) or M (referring to the registration code for Manufacturers and Exports) in the subsequent Registration Number field as the K and M are part of a company's assigned number
- Destination Country – This is a duplicative field as the State Department will be informed of the destination country from other fields (i.e. End User, Consignee, etc.)
- Port or Method of Exportation – The method of export is actually immaterial to the transfer. For example, under the existing regulations, if a company reports they plan to send ITAR controlled technical information by fax but then decides to send that same information through courier mail, would that company need to re-file a complete DS-4071? Would it be a violation of a reporting requirement if the method changes?
- Export Date – This data point should be changed to 'expected export date' or removed entirely. Companies file in advance of a shipment and the exact date(s) of export may not be known or may change after the DS-4071 is submitted. Industry faces similar challenges regarding the 'export date' issue as it does with 'port or method of export.' Should a date of export change (port strike, inclement weather, customer demand, etc) could that be a violation of a reporting requirement?
- Value of goods – This field is appropriate for hardware but is really not applicable to technical data, as regulations value that data based on the medium the data is imprinted on (paper or CD), when the real evaluation of technical data occurs at the licensing review.
- Parties to the Export - The field *All parties to this transaction are eligible parties under 22 CFR 120.1* is an unnecessary field as industry is always subject to the requirements of 22 CFR 120.1 every time they export. Having a field for it is duplicative as the requirements exist in the regulations and this would always be positively identified.
- The Unit of measure and Quantity - fields should be removed as the majority of technical data and defense service exports are of an intangible nature thereby not having a unique unit of measure or set quantity. These units are typically identified with AES filings based on the HTS or Schedule B. For technical data, including CD, reports, etc. the AES filing code is "X", which has no meaning other than NO UNIT OF MEASURE OR QUANTITY is reportable. Furthermore, the State Department's function is not furthered if they are notified that the data being exported from the U.S. through a courier pouch consists of 20 sheets of paper or one disc.
- U.S. Consignee – This field should not be on the DS-4071 form. If the technical data or service is going to a U.S. entity then it is not classified as an export requiring the form.
- Contact name and phone number - ITAR regulations do not require individual names and contact information be provided. Often it is difficult to obtain and provide this information in advance of the export.

**Item #3:**

A method of electronically reporting initial exports of technical data authorized by licenses or agreements is available by upload of a letter to the DTC DTrade system. Industry uses the legacy method of reporting, either a hard copy letter or decremented license for all

exemptions/classified filings. It is our assertion that the utilization of the form DS-4071 affords industry no time saving and creates additional burden to processes what already exist.. As the form is a standalone form, it cannot be manipulated for ease of use (i.e. the creation of templates) and therefore industry must complete the form each time. For companies with repeat activity, the use of form DS-4071 is actually increasing the burden to report this type of information.

**Item #4:**

Industry's position is that form DS-4071 should be eliminated. However, if the form will not be eliminated, AIA supports the goal and objective of enhancing the quality, utility, and clarity of the information to be collected. Item #2 above addresses many items on the form that support a redesign of the form and method of submission. Furthermore, we suggest the following clarifications to the International Traffic in Arms Regulations (ITAR) that relate to form DS-4071.

Section 123.22(a) reads - *Any export....of a defense article...requires electronic reporting of export information.*

AIA reads section 123.22(a) to mean that all exports of data/services require electronic filing through a DS-4071. However, the subsequent section, 123.22(b)(3), emphasizes that only the initial export of data/services must be filed electronically. AIA is in favor of limiting to the initial export as the burden of filing electronically for all exports of data and services is high. At a minimum, AIA recommends section (a) be rewritten to be more in line with (b)(3). Section 123.22(a) should be rewritten to read "*any export...of hardware...requires the electronic reporting of export information.*" As identified in Item #1, Section 123.22(b)(3) should be deleted entirely to remove all reporting requirements for exports of technical data and defense services. However if it remains, it should be rewritten to remove the electronic reporting requirement for all but the initial export using current accepted instructions and practice, and eliminate the DS-4071. Additionally, Section 123.22(b)(3)(iii) currently includes a requirement for industry to provide a copy of the electronic notification (DS-4071) along with technical data shipments. It is inappropriate to require a copy of the DS-4071 with a technical data shipment as the form includes a company's proprietary DDTC registration code. This too should be eliminated.

Thank you for the opportunity to comment. Please know that you have a willing and committed partner at AIA going forward.

Best regards,



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Aerospace Industries Association